

remove a troubled performer designation must include the PHA's supporting documentation and reasons for the appeal or petition. An appeal of a PHAS score must be accompanied by the PHA's evidence that a material error occurred. An appeal or petition submitted to HUD without supporting documentation will not be considered and will be returned to the PHA.

(d) *Denial, withholding, or rescission.* A PHA that disagrees with the basis for denial, withholding, or rescission of its designation under § 902.66 may make a written request for reinstatement within 30 days of notification by HUD of the denial or rescission of the designation to the Assistant Secretary, and the request shall include reasons for the reinstatement.

(e) *Consideration of petitions and appeals.* (1) Consideration of a petition or the appeal of a final overall PHAS score, of a troubled performer designation, or of a petition to remove troubled performer designation. Upon receipt of such an appeal or a petition from a PHA, HUD will evaluate the appeal and its merits for purposes of determining whether a reassessment of the PHA is warranted. HUD will review the PHA's file and the evidence submitted by the PHA to determine whether an error occurred.

(2) Consideration of an appeal of refusal to remove a troubled performer designation. Upon receipt of an appeal of refusal to remove a troubled performer designation, HUD will evaluate the appeal and its merits for the purposes of determining whether a reassessment of the PHA is warranted. The HUD staff initially evaluating an appeal of refusal to remove a troubled performer designation will not be the same HUD staff who evaluated the PHA's petition to remove the troubled performer designation. The Assistant Secretary will render the final determination of such an appeal.

(f) *Notice and finality of decisions.* (1) If HUD determines that one or more objectively verifiable and material error has occurred, HUD will undertake a new inspection of the project, arrange for audit services, adjust the PHA's score, or perform other reexamination of the financial, management, or Capital Fund program information, as ap-

propriate in light of the nature of the error that occurred. A new score will be issued and an appropriate performance designation made by HUD. HUD's decision on appeal of a PHAS score, issuance of a troubled performer designation, or refusal to remove a troubled performer designation will be final agency action. No reconsideration will be given by HUD of such decisions.

(2) HUD will issue a written decision on all appeals and petitions made under this section.

### Subpart G—PHAS Incentives and Remedies

#### § 902.71 Incentives for high performers.

(a) *Incentives for high performer PHAs.* A PHA that is designated a high performer will be eligible for the following incentives, and such other incentives that HUD may determine appropriate and permissible under program statutes or regulations.

(1) *Relief from specific HUD requirements.* A PHA that is designated a high performer will be relieved of specific HUD requirements (*e.g.*, will receive fewer reviews and less monitoring), effective upon notification of a high performer designation.

(2) *Public recognition.* High performer PHAs and RMCs that receive a score of at least 60 percent of the points available for the physical condition, financial condition, and management operations indicators, and at least 50 percent of the points available for the Capital Fund indicator, and achieve an overall PHAS score of 90 percent or greater of the total available points under PHAS shall be designated a high performer and will receive a Certificate of Commendation from HUD, as well as special public recognition, as provided by the field office.

(3) *Bonus points in funding competitions.* A high performer PHA may be eligible for bonus points in HUD's funding competitions, where such bonus points are not restricted by statute or regulation governing the funding program and are provided in the relevant notice of funding availability.

(b) *Compliance with applicable federal laws and regulations.* Relief from any standard procedural requirement that

may be provided under this section does not mean that a PHA is relieved from compliance with the provisions of federal law and regulations or other handbook requirements. For example, although a high performer or standard performer may be relieved of requirements for prior HUD approval for certain types of contracts for services, the PHA must still comply with all other federal and state requirements that remain in effect, such as those for competitive bidding or competitive negotiation (*see* 24 CFR 85.36).

(c) *Audits and reviews not relieved by designation.* A PHA designated as a high performer or standard performer remains subject to:

(1) Regular independent auditor audits;

(2) Office of Inspector General audits or investigations as circumstances may warrant; and

(3) Reviews identified by the regional or field office in its current Risk Assessment of PHAs and projects.

#### § 902.73 PHAs with deficiencies.

(a) *Oversight and action.* Standard and substandard performers will be referred to the field office for appropriate oversight and action.

(1) A standard performer that receives a total score of at least 60 percent shall be required to correct the deficiencies in performance within the time period for correction, as stated in § 902.73(c). If the PHA fails to correct the deficiencies, HUD may either require the PHA to enter into a Corrective Action Plan, or HUD may take other action, as appropriate.

(2) A substandard performer, *i.e.*, a PHA that achieves a PHAS score of at least 60 percent and achieves a score of less than 60 percent of the total points available under one or more of the physical condition, management operations, or financial condition PHAS indicators, shall be required to correct the deficiencies in performance within the time period for correction. If the PHA fails to correct the deficiencies, HUD may require the PHA to enter into a Corrective Action Plan, or take other action, as appropriate.

(3) A PHA with a project(s) that receives less than 60 percent of the points available for the physical condition,

management operations, or financial condition PHAS indicators, or less than 50 percent of the points available for the capital fund indicator, shall be required to correct the deficiencies in performance within the time period for correction, as stated in § 902.73(b). If the PHA fails to correct the deficiencies within the time period allowed, HUD may either require the PHA to enter into a Corrective Action Plan, or take other action, as appropriate.

(b) *Correction of deficiencies.* (1) *Time period for correction.* After a PHA's (or DF-RMC's) receipt of its final overall PHAS score and designation as: A standard performer, within the range described in § 902.73(a)(1); or substandard performer, within the range described in § 902.73(a)(2), or, in the case of an RMC, after notification of its score from a PHA, a PHA or RMC shall correct any deficiency indicated in its assessment within 90 days, or within such period as provided in the HUD-executed Corrective Action Plan, if required.

(2) *Notification and report to regional or field office.* A PHA shall notify the regional or field office of its action to correct a deficiency. A PHA shall also forward to the regional or field office an RMC's report of its action to correct a deficiency. A DF-RMC shall forward directly to the regional or field office its report of its action to correct a deficiency.

(c) *Failure to correct deficiencies.* (1) If a PHA (or DF-RMC or RMC) fails to correct deficiencies within the time period noted in paragraph (b) of this section, or to correct deficiencies within the time specified in a Corrective Action Plan, or within such extensions as may be granted by HUD, the field office will notify the PHA of its noncompliance.

(2) The PHA (or DF-RMC or RMC) will provide the field office with its reasons for lack of progress in negotiating, executing, or carrying out the Corrective Action Plan, within 30 days of the PHA's receipt of the noncompliance notification. HUD will advise the PHA as to the acceptability of its reasons for lack of progress.

(3) If HUD finds the PHA's (or DF-RMC or RMC's) reasons for lack of